

## **Planned Real Estate Development Registration Requirement**

### **Applying for a Conditional Exemption**

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*A residential real estate developer who plans to offer units for sale must prepare and register a Public Offering Statement pursuant to the Planned Real Estate Development Full Disclosure Act, N.J.S. 45:22A-21 et seq.*

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Unless exempted from the requirement, no developer may offer or dispose of any interest in a **planned real estate development** or a **retirement community** prior to registration. A planned real estate development is any real property in New Jersey which consists of or will consist of separately owned areas, lots, parcels, units or interests which are offered or disposed of pursuant to a common promotional plan and providing for common or shared elements or interests in real property. A planned real estate development includes planned unit developments and planned unit residential developments as defined in the Municipal Land Use Law. A retirement community is land divided or to be divided into ten or more lots for the purpose of sale or lease as part of a common promotional plan where such is represented as a community with age restrictions.

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*The requirements for registration are found in N.J.A.C. 5:26-1.1 et seq. Developers and others who contemplate making a public offering are encouraged to seek legal counsel for the preparation of and submittal of the necessary documentation to support a registration application. The New Jersey administrative code is available on line at <http://www.lexisnexis.com/njoal>.*

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Unless the method of disposition is adopted for purposes of evasion, registration is not required for offers or dispositions:

- 1) By an owner for his or her own account in a single or isolated transaction;
- 2) Wholly for industrial, commercial, or other non-residential purposes;
- 3) Pursuant to court order;
- 4) By the United States, by this State, or any of its agencies or political subdivisions;
- 5) Of real property not in New Jersey;
- 6) Of cemetery lots or interests;
- 7) Of less than 100 lots, parcels, units or interests; provided, however, that with respect to condominiums, cooperatives or retirement communities this exemption shall not apply, irrespective of the number of lots, parcels, units or interests offered or disposed of;
- 8) Of developments where the common elements or interests, which would otherwise subject the offering to this Act, are limited to the provision of unimproved, unencumbered open space;
- 9) In a development composed wholly of rental units, where the relationship created is one of landlord and tenant;
- 10) Of any form of timesharing.

For developments that are not exempt by statute (see 1 through 8 above) the agency may grant a **Conditional Exemption** from the registration requirement;

- If the offering is not part of a larger offering and consists of fewer than 10 lots, parcels, units or interests; or,
- If the offering consists entirely of units affordable and legally restricted to persons of low or moderate income; or,
- If the agency finds that the enforcement of the Act is not necessary in the public interest or for the protection of purchasers by reason of the small amount of the purchase price or the limited character of the offering or the limited nature of the common or shared elements.

However, a developer making a public offer that receives a Conditional Exemption from registration must disclose to prospective purchasers information and documentation that the Agency deems appropriate including, but not limited to the information sought in the form entitled *Disclosure Notice*.

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An application for a Conditional Exemption must include:

- ❑ The application fee in the amount of \$141.00 payable by check to the “Treasurer, State of New Jersey.” No fee is charged for a development consisting entirely of units legally restricted to occupancy by households of low or moderate income provided that documentation of the designation and legal restrictions on continued affordability are included.
- ❑ A cover letter with a brief narrative description of the project including any special conditions that should be disclosed to purchasers, and the basis upon which the exemption is sought. Indicate whether the development is new construction or a conversion of an existing building and the status of any tenancies. Be sure to include the name, telephone number and mailing address of the person representing the sponsor/developer to the agency as well as the name of the sponsor.

If the exemption is sought for a project specifically exempt by statute (e.g. less than 100 units and not age restricted, a condominium or a cooperative) provide documentation in support of the assertion (e.g. municipal resolution approving the project size of less than 100 units).

- ❑ If the project is new construction, proof of a new homebuilder registration in the name of the person or entity that will be transferring title to the completed units.
- ❑ If the project is three or more occupied units, include an affidavit of service of the full plan of conversion. Additionally, if the project is five or more occupied units include an affidavit of service for protected and disabled tenants.
- ❑ If the project is a vacant conversion an affidavit executed by the sponsor to the effect that no units are occupied or that the tenancies are strictly seasonal.
- ❑ A completed *Disclosure Notice*.
- ❑ An *Affidavit of Sponsor* that no closing will occur until the exemption has been approved and a disclosure notice is provided to the prospective buyer. In the event that a contract of sale was entered into prior to obtaining the exemption, the exemption will be conditioned on the submission of an *Affidavit of Buyer* acknowledging receipt of the Disclosure Notice and a right to rescind the contract of sale based on the fact that the contract had been executed prior to the required disclosure.
- ❑ *Survey or Plot Plan* including documentation of tax lot and block numbers.
- ❑ For projects that are over 100 units:
  - The exemption application must also include a proposed operating budget for the association accompanied by a statement executed by an independent accountant or a property manager with experience in the management of common interest communities that the budget is adequate, and;
  - A municipal resolution (or other documentation provided by the municipality) addressing the status of project roadways and other capital improvements as well as the maintenance arrangements involving such services as snow removal, garbage pick up, street lighting, and so on.
  - A copy of any Declaration of Covenants and Restrictions
- ❑ Submit the application and fee to:

The Planned Real Estate Development Section  
Bureau of Homeowner Protection  
PO Box 805  
Trenton, N.J. 08625

Telephone inquiries can be made to (609) 984-7574 or fax to (609) 292-2839

**AFFIDAVIT OF SPONSOR**  
Exemption Application to Department of Community Affairs

**STATE OF NEW JERSEY** \_\_\_\_\_ :  
**COUNTY OF** \_\_\_\_\_ : **SS.**

Re: \_\_\_\_\_  
Development  
\_\_\_\_\_  
Street Address (if different than name) \_\_\_\_\_ Lot: \_\_\_\_\_ Block: \_\_\_\_\_ (as shown on survey)  
City \_\_\_\_\_

1. I/We \_\_\_\_\_ am/are the sponsor of the above referenced development and submit this affidavit in support of my application for an Exemption from the registration requirements of N.J.S.A. 22A-26.
2. The facts contained in documents and correspondence filed with the Department of Community Affairs in support of this application are true to the best of sponsor's knowledge and the planned disposition is not for purposes of evading obligations under the Planned Real Estate Development Full Disclosure Act (N.J.S.A. 45:22A-21 et seq.).
3. I/We understand that any closing on any units in this development prior to the approval of this application subjects me/us to penalties in accordance with the PREDFA referenced above.
4. I/We understand that if any contracts of sale have been entered into prior to the approval of the Exemption, the buyer has been provided with a properly completed copy of the current Disclosure Notice, which accompanies sponsor's application and sponsor has submitted the Affidavit(s) signed by the buyers.
5. The development is:
  - (a) \_\_\_\_\_ New Construction and sponsor has a current DCA builder's registration number which is contained in the Disclosure Form, or  
\_\_\_\_\_ I/We am/are retaining at least one unit of this two-unit offering for my/our own use and occupancy; the contractor will be providing the warranties and has a current DCA builder's registration number which is contained in the Disclosure Form.
  - (b) \_\_\_\_\_ A vacant conversion in which I/we either purchased the property vacant in an arms length transaction or terminated the tenancy in accordance with law.
  - (c) \_\_\_\_\_ An occupied conversion and I/we understand that tenants cannot be evicted until sponsor complies with all applicable tenant protection laws which provide for 3 and 5 year minimum periods before evictions can occur, or
  - (d) \_\_\_\_\_ I/We assert that this will be a "Non-eviction" conversion in which no purchasers who are not existing residents of the unit will occupy the unit until the tenants have either voluntarily terminated the tenancy of been evicted in accordance with law unrelated to this conversion.

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The statements and responses made by me above are true. I am aware if any of the above statements or responses are willfully false sponsor is subject to punishment.

Sworn and subscribed to this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

By: \_\_\_\_\_  
(Sponsor)

\_\_\_\_\_  
(Notary Public)

By: \_\_\_\_\_  
(Sponsor)

### Buyer's Affirmation Relative to Purchase of Exempt Property

**SS.**

Re: \_\_\_\_\_  
Development \_\_\_\_\_  
\_\_\_\_\_  
Street Address (if different than name) \_\_\_\_\_  
City \_\_\_\_\_ Lot: \_\_\_\_\_ Block: \_\_\_\_\_ (as shown on survey)

1. I/we \_\_\_\_\_ am/are the purchasers of unit \_\_\_\_\_ in the development referenced above under a contract of sale dated \_\_\_\_\_, 200\_\_.
2. Although I/we did not receive the Disclosure Notice mandated prior to signing the contract, I/we subsequently have received a copy of said notice and understand that because we did not receive it prior to signing the contract, we have the right to withdraw from the contract and receive a return of our deposit money. I/We also understand that a finalized copy of the Disclosure Notice containing the State assigned Exemption Number will be provided to me/us by the seller prior to the closing of title.
3. I/We confirm that, after reading the Disclosure Notice and any additional documents which were requested as referenced in said Notice, I/We understand the terms and nature of this transaction and desire to proceed with the purchase.

Purchaser \_\_\_\_\_ Date: \_\_\_\_\_

Purchaser \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_, 20\_\_\_\_

Notary Public

**DISCLOSURE NOTICE  
PLANNED RESIDENTIAL DEVELOPMENT**



NAME OF DEVELOPMENT	STREET ADDRESS	MUNICIPALITY
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LOCATION OF SALES OFFICE

THE DEVELOPMENT LISTED ABOVE:

- CONTAINING LESS THAN 10 UNITS OR INTERESTS, OR
- CONTAINING UNITS ENTIRELY AFFORDABLE TO PERSONS OF LOW AND MODERATE INCOMES AS DEFINED BY N.J.S.A. 52:27D-301 ET SEQ., OR
- DUE TO THE SMALL AMOUNT OF THE PURCHASE PRICE, THE LIMITED CHARACTER OF THE OFFERING OR THE LIMITED NATURE OF THE COMMON OR SHARED ELEMENTS

HAS BEEN CONDITIONALLY EXEMPTED FROM REGISTRATION UNDER THE PLANNED REAL ESTATE DEVELOPMENT FULL DISCLOSURE ACT BY THE:

NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS  
DIVISION OF CODES AND STANDARDS  
PLANNED REAL ESTATE DEVELOPMENT (PRED)

THIS EXEMPTION IS CONDITIONED UPON THE SPONSOR'S OBLIGATION TO PROVIDE YOU WITH THE INFORMATION ON THIS DISCLOSURE NOTICE IN ORDER FOR YOU TO MAKE AN INFORMED DECISION REGARDING YOUR INVESTMENT. YOU SHOULD BE AWARE THAT LARGE INVESTMENTS SUCH AS THIS MAY CONTAIN INTRICATE INFORMATION THAT MAY REQUIRE THE ADVICE OF A QUALIFIED ATTORNEY OR TAX CONSULTANT. **PLEASE NOTE THAT THE DEPARTMENT OF COMMUNITY AFFAIRS HAS NEITHER APPROVED NOR DISAPPROVED OF THE MERITS OF THIS OFFERING.** BE SURE TO READ ALL DOCUMENTS CAREFULLY BEFORE SIGNING THEM.

1. NAME OF SPONSOR: \_\_\_\_\_

2. ADDRESS OF THE SPONSOR

STREET: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ NEW HOME BUILDER REGISTRATION # \_\_\_\_\_

3. NAME OF SPONSOR'S AGENT: \_\_\_\_\_

4. DESCRIPTION OF THE OFFERING: ☐ New Construction ☐ Vacant Conversion ☐ Occupied Conversion\*

TOTAL # OF UNITS PROPOSED: ENTIRE DEVELOPMENT: \_\_\_\_\_ COMPLETION DATE: \_\_\_\_\_

TOTAL # OF UNITS PRESENTLY BEING OFFERED: \_\_\_\_\_ PHASE COMPLETION: \_\_\_\_\_

TYPES OF UNITS OFFERED

DETACHED _____	APARTMENT CONVERSION _____	
TOWNHOME _____	CONVERSION FROM NON-RESIDENTIAL _____	
NON-RESIDENTIAL _____	DUPLEX OR TWIN _____	

5. FLOOD HAZARD ZONE ON OR ADJACENT TO THE SITE: YES \_\_\_\_\_ NO \_\_\_\_\_

**UNDER THE TERMS OF THIS EXEMPTION THE SPONSOR OF THIS DEVELOPMENT IS OBLIGATED TO PROVIDE YOU WITH THE FOLLOWING INFORMATION, WHICH MUST BE MADE READILY AVAILABLE FOR YOUR INSPECTION IN THE DEVELOPMENT SALES OFFICE.**

1. THE MASTER DEED, BY-LAWS OF THE ASSOCIATION, AND RULES AND REGULATIONS, IF ANY, GOVERNING THE OPERATION OF THE DEVELOPMENT
2. THE PROPOSED MANAGEMENT PLAN FOR THE OPERATION OF THE COMMON FACILITIES OF THE DEVELOPMENT, INCLUDING:
  - A. WHO WILL CONTROL THE ASSOCIATION
  - B. ANY CURRENT MANAGEMENT CONTRACT
  - C. ANY PROPOSED MAINTENANCE AGREEMENT
3. A STATEMENT OF THE RELATIONSHIP OF THE DEVELOPER TO THE SERVICE PROVIDER, IF ANY.
4. THE PROPOSED BUDGET FOR THE OPERATION AND MAINTENANCE OF THE COMMON FACILITIES WITH THE PROPOSED ANNUAL ASSESSMENT, INCLUDING THE ANNUAL AMOUNT SET ASIDE FOR RESERVES FOR REPLACEMENT OF THE COMMON FACILITIES.
5. THE FINAL PLAT PLAN, IF APPLICABLE, APPROVED BY THE LOCAL PLANNING BOARD SHOWING APPROPRIATE SIGNATURES OF APPROVAL. THIS PLAN SHOWS AMENITIES FACILITIES AND IMPROVEMENTS
6. ARE COMMON FACILITIES OPEN ONLY TO THE HOMEOWNERS AND THEIR INVITED GUESTS?  
YES ☐ NO ☐
7. TENANT STATEMENT (IF APPLICABLE)

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**THE OWNER OR DEVELOPER OF THIS PROPERTY IS  
OBLIGATED TO OBTAIN AN EXEMPTION FOR THIS PROPERTY  
FROM PRED PRIOR TO ANY SALE OF UNITS OR INTERESTS**

